

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

POM WONDERFUL LLC, a Delaware  
limited liability company,

Plaintiff,

v.

ORGANIC JUICE USA, INC., a New York  
corporation; and DOES 1-10, inclusive,

Defendants.

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ORGANIC JUICE USA, INC., a New York  
corporation,

Counter-Plaintiff,

v.

POM WONDERFUL LLC, a Delaware  
limited liability company,

Counter-Defendant.

**Case No. 1-09-cv-04916-JPO**

ECF Case

Assigned to Hon. J. Paul Oetken

**NOTICE OF MOTION TO EXCLUDE  
EVIDENCE RELATING TO DESTROYED SAMPLES**

**PLEASE TAKE NOTICE** that upon the Declaration of Andrew S. Robbins, Esq., dated January 9, 2012, and the exhibits annexed thereto; the accompanying Memorandum of Law; the Declaration of Shankar Bhattacharyya, dated January 9, 2012; and the Plaintiff and Counter-Defendant's Complaint, dated May 26, 2009, and exhibit C annexed thereto; Defendant and Counter-Plaintiff, Organic Juice USA, Inc. will move before the Honorable J. Paul Oetken, at the United States District Court for the Southern

District of New York, located in the Daniel Patrick Moynihan United States Courthouse,  
500 Pearl Street, New York, New York, for an Order granting its Motion in Limine to  
Exclude Evidence Relating to Destroyed Samples.

Dated: January 9, 2012  
New York, New York

Respectfully submitted,

By /s/ Henry J. Ricardo  
Harvey Kurzweil  
Henry Ricardo

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Plaintiff Organic Juice USA, Inc.*